

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DUSTIN GLENN,	:	
Petitioner,	:	
v.	:	Case No. 3:17-cv-435
PREBLE COUNTY SHERIFF	:	JUDGE WALTER H. RICE
DEPARTMENT, <i>et al.</i> ,	:	
Respondents.	:	

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #60) AND SUPPLEMENTAL REPORT AND RECOMMENDATIONS (DOC. #63); OVERRULING PETITIONER'S OBJECTIONS THERETO (DOCS. #61, 64); OVERRULING PETITIONER'S EMERGENCY MOTION FOR RECONSIDERATION (DOC. #59); DENYING CERTIFICATE OF APPEALABILITY AND LEAVE TO APPEAL *IN FORMA PAUPERIS*; JUDGMENT TO ENTER IN FAVOR OF RESPONDENTS AND AGAINST PETITIONER; CASE TO REMAIN TERMINATED

On August 27, 2018, the Court issued an Order, Doc. #58, adopting United States Magistrate Judge Michael Merz's Report and Recommendations, Doc. #50, and dismissing the Petition for Writ of Habeas Corpus. At that time, the Court noted the Petitioner had been granted two extensions of time to file Objections to the Report and Recommendations, but no Objections had been filed.

On September 10, 2018, Petitioner filed an Emergency Motion for Reconsideration, Doc. #59, claiming that he had been detained at the Correctional Reception Institution ("CRC") for the past 30 days and did not receive either order

granting him an extension of time to file Objections. He urged the Court to reconsider its order adopting the Report and Recommendations and ask the Clerk to forward the last two orders to an address in Shaker Heights, Ohio.

On September 11, 2018, Magistrate Judge Merz issued another Report and Recommendations, Doc. #60, recommending that the Court overrule Petitioner's Emergency Motion for Reconsideration. He noted that the previous orders were sent to the same Shaker Heights address given by Petitioner and neither was returned to the Court as undeliverable. Moreover, even though Petitioner is incarcerated at CRC, he somehow got notice that his Petition had been dismissed. Magistrate Judge Merz further noted that, although Petitioner was given as much time as he requested to file Objections, he failed to file anything within the time allotted.

Petitioner apparently received a copy of the September 11, 2018, Report and Recommendations, which was sent to the same Shaker Heights address. This is evidenced by the fact that he filed timely Objections to it. Doc. #61. He again asked that he be sent copies of the last several Orders and be given the opportunity to "file a reply to the pending Motion to Dismiss filed by Respondents."

The undersigned recommitted the matter to Magistrate Judge Merz, who issued a Supplemental Report and Recommendations, Doc. #63, noting that Petitioner still offers no substantive objections but seeks yet another extension of

time. Magistrate Judge Merz again recommended that the Court overrule the Emergency Motion for Reconsideration.

Petitioner filed timely Objections to the Supplemental Report and Recommendations, Doc. #64, arguing that he has not had an adequate opportunity to file Objections. He again asks for copies of probate court records to support his Objections.

Based on the reasoning and citations of authority set forth by Magistrate Judge Merz in his Report and Recommendations, Doc. #60, and his Supplemental Report and Recommendations, Doc. #63, and on a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS said judicial filings and OVERRULES Petitioner's Objections thereto, Docs. ##61, 64.

As Magistrate Judge Merz held in his August 3, 2018, Supplemental Memorandum and Order, Doc. #57, if Petitioner wanted copies of his probate court records, he had to request them directly from the probate court. Moreover, Petitioner was given ample opportunity to file Objections to the June 20, 2018, Report and Recommendations, Doc. #50, recommending that the Petition be dismissed with prejudice. When he failed to file Objections within the time allotted, the Court adopted that Report and Recommendations and dismissed the Petition with prejudice. Doc. #58. For the reasons stated by Magistrate Judge Merz, the Court finds that Petitioner's complaints, that he did not receive copies of subsequent court orders, lack merit. Accordingly, Petitioner's Emergency Motion for Reconsideration, Doc. #59, is OVERRULED.

Although the Court dismissed the Petition on August 27, 2018, it does not appear that Judgment was entered. Accordingly, the Clerk shall now enter Judgment in favor of Respondents and against Petitioner. Again, Petitioner is denied any requested certificate of appealability and the Court again certifies to the United States Court of Appeals that any appeal would be objectively frivolous; therefore, Petitioner should not be permitted to appeal *in forma pauperis*.

The above-captioned case shall remain terminated on the Court's docket.

Date: October 16, 2018



WALTER H. RICE
UNITED STATES DISTRICT JUDGE